Local Government and Charities

An interesting observation I have noted in relation to Charity accounting is the expertise of those working within Big Lottery and grant making Trusts, in the understanding of Charity accounts. They often ask searching questions of Charities and require detailed disclosure and complex returns submitted in relation to grants that have been made to the Charity from their organisation. Their knowledge and expertise is above the average accountant! This of course is not surprising in that large sums of money are now disbursed from the Big Lottery and others to Charities and they want to know how the money is being utilised and specifically if the distribution of the money accords with the purposes for which the grant was given.

This brings me to local government where the same factors need to apply. Many Charities are dependent upon their local Borough Council or County Council for grants to enable the Charity to keep functioning, especially in these days of economic difficulty and reduced giving from the general public. Those accounting technicians working within the public sector will need to acquire knowledge as to the accounting disclosure requirements of Charities and how the charity spends the monies given to them by the local authority.

The relevant legislation now applying to Charities is the Charities Act 2011 and the major accounting standard is the Statement of Recommended Practice March 2005. This SORP 2005 is really regarded as the Bible of Charity Accounting and is an excellent document which can be downloaded from the Charity Commission website or purchased. It contains extensive explanations and examples and would be a real help to anyone involved in the preparation or examination of Charity accounts.

Sometimes the monies from the local authority can be just in the form of a general grant for the day to day core running costs of the Charity but more likely they are grants for specific projects. That being the case the income being received by the Charity is restricted income and can only be spent and allocated in accordance with the terms of the grant.

The public sector worker will need to ensure:
The money allocated to the Charity is placed into a restricted fund and utilised for the purposes as agreed. That fund will be part of the restricted funds of the Charity and there should be a separate disclosure note within the Charity accounts on the movements of that fund. At the very least the disclosure note will show the opening balance, the total incoming funds, the total outgoing funds, any transfers and the closing balance.
There should also be a description within the Charity accounts as to the purposes of the fund. This will probably be found as a note to the accounts, termed description of funds, but one would also expect a perhaps more detailed explanation as to the project, what it has achieved, what it seeks to do, its future plans etc, contained within the main Trustees report. This would certainly be the case with large grants and what is large would really depend upon the materiality of the amounts involved compared to the total income of the Trust.
When awarding and allocating the grant in the first instance, the Council/authority would want to know that the money is being spent in accordance with the charitable objectives of the Charity. It is all very well to make a grant to help the unemployment work of the Charity, but is the Charity set up in the first place to do this work? And is that work description contained within the Objects?
The public sector worker will need to examine the Trust governing document. In the case of a charitable Company this would be the Memorandum & Articles of Association. In the case of an unincorporated Charity it would be a Trust Deed/Constitution. Sometimes you will find that a Charity is set up with a very wide ranging Objects Clause within its Constitution, i.e. for the relief of poverty or for the advancement of education. In such cases that would be fine, but invariably now we find a more detailed description of the Objects in the Constitution. If the work of the Charity is to help the aged in the town, then that should be set out in the Objects Clause and that is how the money should be spent and not for other purposes.

If a Charity is acting outside of its Trusts, i.e. it's Objects Clause that would be considered a serious offence by the Charity Commission.

We also live in an age of political correctness and local authorities especially would want to ensure that a Charity does keep within the culture of the age and does not seem to be prejudiced against perhaps certain sectors of the community. Sometimes this could be discovered within the main Objects Clause, but really only a careful examination of the Charity accounts would enable the reader to understand the exact nature of the Charity's work. Again, this could be carefully hidden but the Charity is required to make full disclosure within its Trustees Annual Report of its activities, its achievements, its performance, future plans and much can be gleaned from reading the Trustees report. A lack of wording within the Trustees Report, as to the activities of the Charity would be considered a warning sign.

There has been in recent years much debate over the expression Public Benefit – it is now part of the Charities Act with Charities required to state in the Trustees Report that they have considered the Public Benefit rules and that the Charity is acting within those rules. This does put pressure on smaller narrow Charities where the work is perhaps limited to specific sectors of the community. When awarding grants authorities need to review the accounts to ensure that the Charity is seen to be for public benefit. Charities like other organisations are required to adhere to the law as set in the rules and regulations as contained in the Charities Act 2011. They are subject to scrutiny by the Charity Commission where the accounts are a matter of public record and available for all to see.

Where a Charity has total income over £500,000 per annum then the Charity is subject to a full statutory audit by a recognised statutory auditor. Obviously reliance can be made upon the audit certificate given and the audit certificate should be found within the main body of the accounts of the Charity.

Not so well known is that if the Charity has an income over £25,000 per annum and below £500,000 per annum, then it has to have an independent examination certificate attached to its accounts. The independent examination was originally introduced in the Charities Act 1993 as a lighter touch regime for small unincorporated Charities but also now extends to Charitable Companies with an income below £500,000 per annum. It is less onerous and provides less assurance than an audit.

The independent examination provides negative assurance by stating that there is no evidence that:
i) Accounting records have not been kept in accordance with the regulations.
ii) Accounts do not accord with those records.
iii) Accounts do not comply with relevant legislation and regulation as to the form and content.
iv) Any other matters need to be disclosed.

In addition, the examiner must state if any of the following have become apparent during the examination:
i) Material expenditure or actions outside the Trust of the Charity.
ii) Failure to be provided with information and explanations considered necessary.
iii) Any material inconsistency between the accounts and the Trustees annual report.
The independent examiner makes no comment on true and fair view although the Trustees are obliged to prepare accounts that show a true and fair view.

The Charity Commission actually provide guidance to Trustees in respect of independent examinations and this can be easily found on the Charity Commission website and is a useful read for understanding how independent examinations work.

When looking at independent examination certificates and audit certificates, the reader should always be aware that there can be qualified certificates and if such is found then this would necessitate further investigation as to what are the problems and whether they should indeed be making grants to the Charity.

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